GJM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
08 JAN 15 AM 11:48
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v.	Magistrate Case No. '08 MJ 0111
1) Benny LOPEZ, **2) Linda Adela ROSALES-Ortega** **3) Juan Jose AGUIRRE-Cruz** Defendant(s)	COMPLAINT FOR VIOLATION OF: Title 8 U.S.C., Sec. 1324 (a) (1) (A) (ii) Transportation of Illegal Aliens; Title 8 U.S.C., Sec 1324 (a) (2) (B) (iii) Bringing in Illegal Aliens Without Presentation

The undersigned complainant, being duly sworn, states:

COUNT ONE

On or about **January 13, 2008,** within the Southern District of California, defendant **Benny LOPEZ, Linda Adela ROSALES-Ortega** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Victor Manuel AYON-Lizarraga, Carlos Jodin VILLEGAS-Hernandez,** and **Ramon SILVA-Reyes,** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

COUNT TWO

On or about **January 13, 2008,** within the Southern District of California, defendant **Juan Jose AGUIRRE-Cruz,** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Victor Manuel AYON-Lizarraga, Carlos Jodin VILLEGAS-Hernandez,** and **Ramon SILVA-Reyes,** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **15th** DAY OF **JANUARY 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

GVM

CONTINUATION OF COMPLAINT:
1) Benny Lopez
2) Linda Adela ROSALES-Ortega
3) Juan Jose AGUIRRE-Cruz

PROBABLE CAUSE STATEMENT

The complainant states that **Victor Manuel AYON-Lizarraga, Carlos Jodin VILLEGAS-Hernandez,** and **Ramon SILVA-Reyes** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On January 13, 2008, Border Patrol Agent J. Prishker alerted all agents in the Boulevard area of operations, that he noticed a blue Chevrolet Avalanche driving slowly eastbound just west of mile marker 33.5 on Old Highway 80. This location is a known loading area for illegal aliens and narcotics smugglers.

Border Patrol Agent W. Western alerted all agents that he had noticed a vehicle with the same description bearing a California license plate, registered out of Imperial County, parked at the Lux Inn Motel. A vehicle of the same make, model, and color had been observed in the vicinity of several narcotics smuggling evolutions in the past two weeks near Boulevard, California.

Supervisory Border Patrol Agent T. Hunt, who was in the area where the vehicle was last seen, noticed the Chevrolet Avalanche traveling in front of him at a very slow rate of speed. As he neared the vehicle, the Chevrolet Avalanche picked up speed, drove into Jacumba, and parked in front of the Jacumba Hot Springs Spa and Resort in Jacumba. Agent Hunt was able to verify that the plate matched the same vehicle that Agent Western had seen earlier at the Lux Inn Motel. Agent Hunt observed the driver, whom he later identified as Benny Lopez and the passenger, whom he also later positively identified as Linda Adela ROSALES-Ortega, exit the Chevrolet Avalanche and approach the Jacumba Spa afoot.

About an hour later the Chevrolet Avalanche left the town of Jacumba, traveling westbound on Old Highway 80. Moments later Border Patrol Agent J. Trautmann spotted the Chevrolet Avalanche passing Starship Lane, traveling westbound on Old Highway 80. Agent Trautmann conducted a vehicle stop on the Chevrolet Avalanche on Ribbonwood Road at approximately 11:30 A.M. As Agent Trautmann approached the vehicle he identified himself as a Border Patrol Agent and questioned the driver, defendant #1 Benny Lopez, and defendant #2, Linda Adela Rosales-Ortega, who were the only visible passengers, as to their citizenship and immigration status. Both defendants stated that they were "Americans". During the questioning, Agent Trautmann observed movement from the back seat floor area of the vehicle. The windows of the vehicle were heavily tinted, and Agent Trautman was unable to see inside the vehicle. Agent Trautmann asked defendant #1 for permission to search the back seat of the vehicle. Defendant#1 said, "Go ahead". Upon opening the back door, Agent Trautmann found two individuals hiding on the floorboards between the front seats and back seats. Agent Trautmann identified himself as a Border Patrol Agent and questioned both individuals as to their citizenship, nationality and immigration status. Both individuals freely admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to be or remain in the United States legally. All four individuals were arrested and transported to the Boulevard station for further processing.

While searching defendant #1, the defendant stated that he was formerly a United States Border Patrol Agent. Defendant #1 was in possession of $3,073.00 U.S. dollars, a room key from the Lux Inn Motel and two cellular telephones.

GVM

CONTINUATION OF COMPLAINT:
1) Benny Lopez
2) Linda Adela ROSALES-Ortega
3) Juan Jose AGUIRRE-Cruz

Just prior to the stop of the Chevrolet Avalanche, Supervisor Hunt and Border Patrol Agent D. Joyal, who had been searching the area where the Chevrolet Avalanche had stopped, observed one suspect fleeing south from the area. Agent Joyal apprehended this individual who was defendant Juan AGUIRRE-Cruz. AGUIRRE had a cellular telephone in his hands as he ran. The phone was still in the on position, but AGUIRRE appeared to be attempting to break it apart as he was apprehended. It is common to see alien smugglers destroy cellular phones prior to being apprehended to prevent the identification of other members of the smuggling organization.

Agent Joyal later also apprehended Ramon SILVA-Reyes near the location where the Chevrolet Avalanche had stopped. Agent Joyal identified himself as a United States Border Patrol Agent and began to question AGUIRRE and SILVA as to their citizenship and immigration status using the English language. When neither responded to his questions, he repeated his questions AGUIRRE and SILVA in the Spanish language. AGUIRRE and SILVA freely admitted to being citizens and nationals of Mexico. They stated that they crossed into the United States from Mexico illegally on foot. AGUIRRE and SILVA freely admitted they do not possess legal documents that would allow them to enter, be in, or remain in the United States legally. Agent Joyal placed both AGUIRRE and SILVA under arrest. AGUIRRE and SILVA were transported to the Boulevard Station for processing.

DEFENDANT #2 STATEMENT: Linda Adela ROSALES-Ortega

ROSALES was advised of her Miranda rights and stated that she understood her rights and agreed to provide a statement without the presence or aid of an attorney. ROSALES is a United States Citizen who currently resides in Heber, California.

ROSALES stated that earlier on January 13, 2008, her friend, Defendant #1 Benny LOPEZ, picked her up in Heber with the purpose of going for a drive. Defendant #1 came to El Centro, California, where he resides to pick her up. No other passengers were in the vehicle when Lopez picked Rosales up. ROSALES stated that she did not know what they were going to do, but imagined they might go to a casino. ROSALES stated that from Heber, they drove to the Lux Inn Motel in Boulevard, California and checked into a room. ROSALES and Defendant #1 spent a few hours in the room and then decided to go get something to eat. ROSALES and Defendant #1 then traveled together to the Jacumba Spa Restaurant.

ROSALES stated that when the vehicle was stopped by the Border Patrol there were four individuals in the vehicle. ROSALES stated that, at the time of the stop, Defendant #1 was driving, she was in the front passenger seat, and the two illegal aliens were in the back seat. ROSALES is not related to nor had she ever met the two illegal aliens. ROSALES stated that she believed the other two passengers were illegal aliens by their appearance. ROSALES did not think anything about the fact that two unknown illegal aliens were riding in the car with them. ROSALES stated that no one spoke a word after the two illegal aliens got into the vehicle. ROSALES did not know where they were going to take the illegal aliens.

GVM

CONTINUATION OF COMPLAINT:
1) Benny Lopez
2) Linda Adela ROSALES-Ortega
3) Juan Jose AGUIRRE-Cruz

DEFENDANT #3 STATEMENT: Juan Jose AGUIRRE-Cruz

AGUIRRE stated he is a citizen of Mexico. AGUIRRE stated his purpose of crossing to the United States was to seek employment as a landscaper in San Diego, California. AGUIRRE stated his mother was going to pay an unknown amount for him to be smuggled.

AGUIRRE stated he crossed the international border at approximately 6:00 a.m., on January 13, 2008. AGUIRRE said he crossed with one other individual who was the foot guide. When arrested, AGUIRRE had in his possession a cellular phone. AGUIRRE said his mother gave him the cellular phone. AGUIRRE stated the last call made or placed from his cell phone was from his cousin. AGUIRRE stated he remembers he was near a bridge, hiding in the brush, when he saw a Border Patrol Agent. AGUIRRE stated he ran when he saw the Border Patrol Agent nearby. AGUIRRE stated the agent caught and arrested him.

When confronted with factual information pertaining to this event, AGUIRRE retracted his previous statement. AGUIRRE then stated that this is the only time he has worked as a foot guide. AGUIRRE was to be paid $100.00 for each person he successfully guided. AGUIRRE stated he smuggled three people to a load spot where a vehicle was going to pick them up. AGUIRRE stated his cousin Saul made the arrangements for him to cross the individuals. AGUIRRE stated that there was also a high point look out assisting him. The look out on Los Perdidos Mountain directed him on what to do and watched for agents in the area. AGUIRRE stated his cousin told him that there would be a truck to pick up the group.

MATERIAL WITNESSES STATEMENTS:

The three material witnesses, Victor Manuel AYON-Lizarraga, Carlos Jodin VILLEGAS-Hernandez, and Ramon SILVA-Reyes, stated that they were citizens and nationals of Mexico present in the United States without any immigration documents allowing them to enter or remain in the United States legally. The three material witnesses stated that they made arrangements to be smuggled into the United States for $2,800.00 (US). All material witnesses stated that they made smuggling arrangements in Mexico to be guided into the United States illegally.

All three material witnesses were shown a photographic line up during their interviews and were able to positively identify the defendant #3 **Juan Jose AGUIRRE-Cruz**, as the person who guided them into the United States illegally.